AUTHORITY and LIMITATIONS of PARENTS of MINORS who are INPATIENTS

Legal Role of Parents:

- Ensure that **basic needs** (food, shelter, clothing, and education) are provided by the facility
- Ensure that there is a **treatment plan** in place appropriate for the minor's needs
- Participate in the **planning** of the **care and treatment** for the minor
- Act and make decisions in the **best interests** of the child
- **Provide necessary consents**; In addition to general consents, e.g. for the treatment plan or for usual and customary medical care, the parent's **written informed consent is usually required for:**
    - psychotropic medications
    - other medical treatment
    - behavior treatment programs, behavior support plans and any non-emergency use of restrictive management techniques (such as time-out)
    - experimental research and any "drastic treatment"
    - filming and taping, and some releases of treatment records

In general: Consent of **parent** for a minor **less than 14 years old** is required for treatment. Consent of the **parent and a minor** aged **14-17** is required for treatment.

AODA Treatment: A minor aged 12 or older may consent to treatment for substance abuse without parental consent. Thus, treatment staff need to individualize parameters for the parent's role and involvement in the minor's care and treatment. Minors under 12 can be assessed for AODA treatment without parental consent if the parent cannot be found. Minors of any age may be treated for substance abuse solely on parental consent – the minor cannot refuse.

Release of Information: A parent can consent to release of information, or a minor 14-17 can consent without consent of parent. Record access by a parent may be individualized during treatment, depending on the circumstances.

Others with a role in planning and decision-making are the **treatment team** including:

- Program staff, county case manager, minor
- Sometimes an attorney or advocate for the minor patient
- The court with jurisdiction over the commitment or admission

Parents/ family always have the right to provide input, and make requests of care-givers and providers, but do not have "total" decision-making authority other than as noted above. The treatment team within the facility or program has a primary role.

"Gray Areas"

There are "gray areas" of the parent's legal authority (where parents have influence but not the final say)**. Decisions within these "gray areas"** include, but are not limited to, the following examples:

- Individual **preferences** of clothes, food, drink, etc.
- Lifestyle **choices** and leisure activities (freedom of expression)
- Friendships and associations with others (freedom of association)
- Community **access** and community involvement (freedom of movement)

In these gray areas, individual rights and autonomy are to be respected as much as possible. Services providers/ facilities are to place the **least possible restrictions** on personal liberty and the exercising of individual rights while protecting a minor from exploitation or harm. For example, a parent cannot unilaterally dictate who should be allowed to visit, or denied visitation with a client in a facility. Team assessment (risk management analysis) and completion of a rights limitation/ denial is usually necessary.

Sometimes a **court order** (under Ch. 48 or Ch. 51) may include **restrictions** related to the above gray areas (e.g., the court may limit who can visit the minor or who the minor may have contact with). Providers should follow the court order or seek further clarification or modification of the order as necessary.

Document last updated: 8/23/06 by the DDES Client Rights Office.